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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,551	12/14/2000	Satoshi Kidooka	P20361	6566
7055	7590	02/08/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C.			LAM, ANN Y	
1950 ROLAND CLARKE PLACE			ART UNIT	
RESTON, VA 20191			PAPER NUMBER	
			1641	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/735,551	Applicant(s) KIDOOKA, SATOSHI	
	Examiner Ann Y. Lam	Art Unit 1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu, Japanese Utility Model Publication No. Hei-7-51066, in view of Nita et al., 5,916,192

Shimizu discloses the invention substantially as claimed. More specifically, Shimizu discloses an endoscope comprising:

- a treatment instrument channel (i.e., endoscope, page 1);

- an endoscopic spraying instrument (4) comprising:

- a liquid supplying tube (7) configured to pass liquid therethrough and to be removably inserted into the treatment instrument channel (endoscopes, page 1);

- a rotatably guiding groove (8) disposed at a leading end side of the supplying tube and configured to rotate the liquid about a central axis;

- a liquid rotating chamber (10) disposed at a leading end side of the rotatably guiding groove, the liquid rotating chamber configured to rotate the liquid therein;

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a spray nozzle (distal end portion of 10) formed in a leading end wall of the liquid rotating chamber and configured to discharge the liquid from the liquid rotating chamber; and

an annular, protruded wall (5a) spaced outwardly from an outer periphery of the spray nozzle, the wall protruded forwardly from and surrounding an exit of the spray nozzle.

As to claim 3, a wall surface (distal end portion of 5a) extending between the outer periphery of the spray nozzle and the annular, protruded wall (proximal end portion of 5a) is defined by a planar surface perpendicular to an axis of the spray nozzle. (Examiner notes that Applicant has not specified in claim 3 as to which axis Applicant is referring, e.g., longitudinal axis, etc.)

As to claim 4, a wall surface of the annular, protruded wall (5a) is parallel to an axis of the spray nozzle (see page 6, last paragraph, and figure 2.) (Examiner notes that Applicant has not specified in claim 4 as to which axis Applicant is referring, e.g., longitudinal axis, etc.)

As to claim 5, a wall surface of the annular, protruded wall (5a and 5b) is defined by a forwardly spread surface or a forwardly constricted surface (see page 6, last paragraph, and figure 2.)

As to claim 29, the liquid supply tube (7) is substantially coaxial with the spray nozzle (10), (see figure 2.)

However, as to claim 1, lines 14-15, Shimizu does not disclose a wall surface extending between the outer periphery of the spray nozzle and the annular, protruded wall defined by one of a tapered surface and a curved,

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concave surface. Shimizu discloses a similar wall that is tapered and concave (5b), but it is not curved.

Nita et al. discloses a catheter comprising a tube wherein the tube has at its distal end, a wall defined by a tapered, curved and concave surface (see concave indentation 34), wherein irrigation fluid may be infused through the tube and out of the distal tip member (col. 3, lines 1-6).

It would have been obvious matter of design choice to modify the Shimizu reference by having the tapered concave surface be curved, as taught by Nita et al., since Applicant has not disclosed that this configuration solves any stated problem or is for any particular purpose and it appears that the taper disclosed by Shimizu would perform equally well. Furthermore, such a modification would have involved a mere change in the size or shape of a component. A change in size or shape is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Response to Arguments

Applicant's arguments with respect to the above rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is 571-272-0822. The examiner can normally be reached on M-Sat 11-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.L. 


CHRISTOPHER L. CHIN
PRIMARY EXAMINER
GROUP 1800-1641
2/6/05